

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD**

NABET-CWA, Local 51,

and

**Case Nos. 19-CB-244528
19-CB-247119**

Jeremy Brown.

**MOTION FOR LEAVE TO FILE REPLY AND REPLY TO RESPONDENT
CONCERNING THE WITHDRAWAL OF GENERAL COUNSEL ROBB'S
EXCEPTIONS¹**

“The lady doth protest too much, methinks.” William Shakespeare, *Hamlet*, act III, scene II. The response filed by NABET, Local 51 is patently false.

Brown’s position is not that the entire prosecution of his charges must cease. The Complaint in these matters was issued on authority delegated by General Counsel Robb and may still be prosecuted on that authority, despite the fact he may have been illegally removed from office, or that the Acting General Counsel has been improperly installed. *See Bonwit Teller, Inc. v. NLRB*, 197 F.2d 640, 644 (2d Cir. 1952) (“Before his resignation, the General Counsel had delegated to his representative at the hearing authority to prosecute the complaint. We find no impropriety in such a procedure”); *see also NLRB v. Gemalo*, 130 F. Supp. 500, 501 (S.D.N.Y. 1955) (“once a complaint has been filed while a General Counsel is in office, that complaint may be prosecuted.”).

Moreover, these cases are already within the Board’s jurisdiction (not the General Counsel’s) and only the Board can decide their disposition. *Robinson Freight Lines*, 117 NLRB

¹ Under NLRB Rules and Regulations §102.24 “further responses are not permitted except where there are special circumstances warranting leave to file such a response.” This is a special circumstance given Respondent has mischaracterized Brown’s position and impugned his Counsel.

1483, 1485 (1957) (“the Board alone is vested with lawful discretion to determine whether a proceeding, when once instituted, may be abandoned.”); *Indep. Stave Co.*, 287 NLRB 740, 741 (1987) (“the Board alone is vested with lawful discretion to determine whether a proceeding, when once instituted, may be abandoned.”).

Continuing prosecution of these cases (which are already within the Board’s jurisdiction) based on General Counsel Robb’s authorization of the Complaint and his exceptions is appropriate for both reasons. The motion to withdraw the GC’s exceptions should be denied, and the Board should consider and determine the exceptions of both the General Counsel and Charging Party.

Respectfully Submitted,

February 18, 2021

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CERTIFICATE OF SERVICE

I hereby certify that February 18, 2021, a true and correct copy of the forgoing document was filed electronically using the NLRB e-filing system, and copies were sent to the following parties via e-mail:

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